

## HOUSE SUBSTITUTE

FOR

## HOUSE COMMITTEE SUBSTITUTE

FOR

## HOUSE BILL NO. 156

AN ACT

2 To repeal section 188.039, RSMo, and to enact  
3 in lieu thereof two new sections relating to  
4 a twenty-four hour waiting period for certain  
5 medical procedures, with an effective date  
6 for a certain section.

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7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
8 AS FOLLOWS:

9 Section A. Section 188.039, RSMo, is repealed and two new  
10 sections enacted in lieu thereof, to be known as sections 188.039  
11 and 188.043, to read as follows:

12 188.039. 1. [No physician shall perform an abortion  
13 unless, prior to such abortion, the physician certifies in  
14 writing that the woman gave her informed consent, freely and  
15 without coercion, after the attending physician had informed her  
16 of the information contained in subsection 2 of this section and  
17 shall further certify in writing the pregnant woman's age, based  
18 upon proof of age offered by her.

19 2. In order to insure that the consent for an abortion is  
20 truly informed consent, no abortion shall be performed or induced

1 upon a pregnant woman unless she has signed a consent form that  
2 shall be supplied by the state department of health and senior  
3 services, acknowledging that she has been informed by the  
4 attending physician of the following facts:

5 (1) That according to the best medical judgment of her  
6 attending physician whether she is or is not pregnant;

7 (2) The particular risks associated with the abortion  
8 technique to be used;

9 (3) Alternatives to abortion shall be given by the  
10 attending physician.

11 3. The physician may inform the woman of any other material  
12 facts or opinions, or provide any explanation of the above  
13 information which, in the exercise of his best medical judgment,  
14 is reasonably necessary to allow the woman to give her informed  
15 consent to the proposed abortion, with full knowledge of its  
16 nature and consequences.] For purposes of this section, "medical  
17 emergency" means a condition which, on the basis of the  
18 physician's good faith clinical judgment, so complicates the  
19 medical condition of a pregnant woman as to necessitate the  
20 immediate abortion of her pregnancy to avert her death or for  
21 which a delay will create a serious risk of substantial and  
22 irreversible impairment of a major bodily function.

23 2. Except in the case of medical emergency, no person shall  
24 perform or induce an abortion unless at least twenty-four hours  
25 prior thereto, the treating physician has conferred with the

1 patient and discussed with her the indicators and contra-  
2 indicators, and risk factors, including any physical,  
3 psychological, or situational factors for the proposed procedure  
4 and the use of medications, including but not limited to  
5 mifepristone, in light of her medical history and medical  
6 condition. For an abortion induced by a drug or drugs, such  
7 conference shall take place at least twenty-four hours prior to  
8 the writing or communication of the first prescription for such  
9 drug or drugs in connection with inducing an abortion. Only one  
10 such conference shall be required for each abortion.

11 3. The patient shall be evaluated by the treating physician  
12 during the conference for indicators and contraindicators, risk  
13 factors, including any physical, psychological, or situational  
14 factors which would predispose the patient to or increase the  
15 risk of experiencing one or more adverse physical, emotional, or  
16 other health reactions to the proposed procedure or drug or drugs  
17 in either the short or long term as compared with women who do  
18 not possess such risk factors.

19 4. At the end of the conference, the treating physician  
20 shall sign and shall cause the patient to sign a written  
21 statement that the woman gave her informed consent freely and  
22 without coercion after the physician had discussed with her the  
23 indicators and contraindicators, and risk factors, including any  
24 physical, psychological, or situational factors. All such  
25 executed statements shall be maintained as part of the patient's

1 medical file, subject to the confidentiality laws and rules of  
2 this state.

3 5. The director of the department of health and senior  
4 services shall disseminate a model form that physicians may use  
5 as the written statement required by this section, but any lack  
6 or unavailability of such a model form shall not affect the  
7 duties of the physician set forth in subsections 2 to 4 of this  
8 section.

9 188.043. 1. No person shall perform or induce a surgical  
10 or medical abortion unless such person has proof of medical  
11 malpractice insurance with coverage amounts of at least five  
12 hundred thousand dollars.

13 2. For the purpose of this section, "medical malpractice  
14 insurance" means insurance coverage against the legal liability  
15 of the insured and against loss, damage, or expense incident to a  
16 claim arising out of the death or injury of any person as a  
17 result of the negligence or malpractice in rendering professional  
18 service by any health care provider.

19 3. No abortion facility or hospital shall employ or engage  
20 the services of a person to perform one or more abortions if the  
21 person does not have proof of medical malpractice insurance  
22 pursuant to this section.

23 4. Notwithstanding the provisions of section 334.100, RSMo,  
24 failure of a person to maintain the medical malpractice insurance  
25 required by this section shall be an additional ground for

1     sanctioning of a person's license, certificate, or permit.

2             Section B.   The effective date of section 188.043 of section  
3     A of this act shall be January 1, 2004.